

Message Text

PAGE 01 QUITO 05664 01 OF 04 012301Z

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TO SECSTATE WASHDC 9056
INFO AMEMBASSY LIMA
AMCONSUL GUAYAQUIL

C O N F I D E N T I A L SECTION 1 OF 4 QUITO 5664

EXDIS

E.O. 11652: GDS
TAGS: PBOR, EFIS, EC
SUBJECT: ANOTHER LOOK AT AN ARRANGEMENT TO RESOLVE THE US-
ECUADOREAN FISHERIES DISPUTE ON AN INTERIM BASIS

REF: QUITO 2525; 5173; 5309; 5619

1. SUMMARY: THE GOE POSITION ON FISHERIES AND LOS HAS UNDERGONE A SIGNIFICANT TRANSFORMATION OVER THE PAST YEAR. UNTIL THE SUMMER OF 1972, THE ECUADOREAN POSITION WAS THE TRADITIONAL ONE BASED ON SOVEREIGNTY OUT TO 200 MILES AND THE NEGOTIATING PROBLEM WAS HOW TO REACH AN INTERIM AGREEMENT DEALING WITH THE PROBLEM OF FISHING LICENSES WITHOUT PREJUDICING OUR LOS POSITION. THE GOE NOW HAS A DIFFERENT POSITION -- ONE BASED ON THE PRINCIPLE OF MAXIMIZING ECUADOREAN UTILIZATION OF THE BIOLOGICAL RESOURCES EXISTING WITHIN THE 200 MILE ZONE. THIS SHIFT HAS GENERATED GOE INTEREST IN CONSERVATION AND HAS BEGUN A TREND TO AN EXCLUSIVE FISHING ZONE. INDEED THE PRINCIPLE OF SUCH A ZONE IS NOW ESTABLISHED IN ECUADOREAN LAW. IN ORDER TO SPEED THIS TREND, THE GOE IS TAKING STEPS TO INCREASE ECUADOREAN TUNA FISHING CAPACITY TEMPORARILY THROUGH CHARTER AND ASSOCIATION CONTRACTS WHICH PERMIT FOREIGN FLAG VESSELS TO FISH IN ECUADOREAN-CLAIMED WATERS WITHOUT A LICENSE. THE EMBASSY BELIEVES THAT THE GOE'S EFFORT TO INCREASE ECUADOREAN FISHING CAPACITY WILL LEAD TO AN EFFECTIVE AND ENFORCED EXCLUSIVE FISHING ZONE WITHIN 2 TO 5 YEARS AND THAT CONSEQUENTLY OUR PRESENT NEGOTIATING PROBLEM IS TO SECURE CONFIDENTIAL

PAGE 02 QUITO 05664 01 OF 04 012301Z

CONTINUED ACCESS TO THE TUNA OFF ECUADOR FOR AMERICAN FLAG VESSELS UNDER AGREED CONDITIONS FOR A SPECIFIC AMOUNT OF TIME OR PENDING THE RESULTS OF THE LOS CONFERENCE. IN OUR OPINION THE NEW ECUADOREAN EMPHASIS ON CONSERVATION AND THE TEMPORARY,

SPECIAL NO-LICENSE STATUS FOR CERTAIN FOREIGN FLAG VESSELS OFFER A NEW CHANCE AT ARRIVING AT AN INTERIM ARRANGEMENT WITH THE GOE. THE EMBASSY PROPOSES AN INTERIM ARRANGEMENT BASED ON A CONSERVATION AGREEMENT (INCLUDING ALIMITATION ON CATCH) AND NON-LICENSE STATUS FOR PARTICIPATING US FLAG SHIPS. THIS ARRANGEMENT AVOIDS THE PROBLEM OF LICENSES AND SKIRTS THE ISSUE OF SOVEREIGNTY. IT IS TIMELY BECAUSE THE GOE IS INTERESTED IN AN AGREEMENT FOR ECONOMIC REASONS AND BECAUSE OUR POLICY OPTIONS ARE DIMINISHING AS THE STATUS QUO IS ALTERED. WE MAY NOT BE ABLE TO AVOID MUCH LONGER THE CHOICE BETWEEN EXPANDED EFFORTS AT COERCION OR OF ABANDONING OUR FISHERMEN SINCE THE OPTION OF REIMBURSING OUR FISHERMEN FOR FINES AND COSTS WILL DISAPPEAR WITH THE LICENSES THEMSELVES WHEN THE ZONE BECOMES FULLY EXCLUSIVE.

2. BACKGROUND: DURING THE PAST YEAR THEECUADEOREAN POSITION ON LOS AND FISHERIES HAS UNDERGONE AN IMPORTANT TRANSFORMATION. UNTIL THE SUMMER OF 1972 THE GOE'S POSITION WAS THE TRADITIONAL ONE BASED ON SOVEREIGNTY OUT TO 200 MILES, AND THE NEGOTIATING PROBLEM WAS HOW TO ACHIEVE AN INTERIM AGREEMENT WHICH WOULD NOT PREJUDICE OUR LOS POSITION AND WHICH WOULD AT THE SAME TIME DEAL WITH THE GOE LICENSING REQUIREMENT. WHILE THERE WAS A GOOD PROSPECT OF AN AGREEMENT IN THE SUMMER OF 1972, THE DELAY IN PRESENTING THE PROPOSAL FINALLY AUTHORIZED BY NSDM 194 CAUSED THE NEGOTIATIONS TO FAIL FOR TWO REASONS. FIRST, THE ADOPTION IN OCTOBER 1972 OF HR 7117 - A NEW SANCTION AIMED AT NATIONS SUCH AS ECUADOR WHICH ARREST AND FINE U.S. FISHING VESSELS IN WATERS WE REGARD AS THE HIGH SEAS. THE SANCTION WAS THE THREATENED DEDUCTION OF THE FINES AND RELATED COSTS FROM THE AID PROGRAMS IN THE OFFENDING COUNTRIES. OUR OFFER WAS FORMALLY REFUSED IN DECEMBER, WHEN THE GOE STATED THAT IT WOULD NOT NEGOTIATE UNDER THE THREAT OF SANCTIONS, SPECIFICALLY HR-7117. SECONDLY, THE DELAY GAVE THE GOE TIME TO RECONSIDER WHERE ITS REAL INTERESTS LAY. WHILE THE GOE HAD TRADITIONALLY SEEN THE QUESTION AS ONE OF SOVEREIGNTY AND NATIONAL HONOR, IT NOW DECIDED THAT THE REAL ISSUE WAS THE CONSERVATION, AND, ULTIMATELY EXCLUSIVE ECUADOREAN EXPLOITATION OF THE RESOURCES WITHIN THE 200 MILE ZONE.

CONFIDENTIAL

PAGE 03 QUITO 05664 01 OF 04 012301Z

3. CONSEQUENTLY THE GOE BEGAN TO SIGNAL OTHER CHANGES IN ITS POSITION -- CHANGES WHICH QUALIFIED ITS TRADITIONAL CLAIM TO ABSOLUTE TERRITORIAL SOVEREIGNTY. HENCE GOE OFFICIALS HAVE STATED THAT ECUADOR IS LIKELY TO ADOPT A POSITION ALLOWING FREE PASSAGE BEYOND 12 MILES (QUITO 2204; 2207), AND THAT IT FAVORS THE CONSERVATION OF THE RESOURCES OF THE SEA AND SEABED AND IS, THEREFORE, WILLING TO ENTER INTO INTERNATIONAL AGREEMENTS TO THAT END INCLUDING FISH BY SPECIES (QUITO 2249 AND 2510).

4. THIS TREND OF GOE THINKING HAS CONTINUED AND HAS FOCUSED MORE AND MORE ON INCREASING ECUADOR'S ABILITY TO EXPLOIT THE BIOLOGICAL RESOURCES WITHIN THE 200 MILE ZONE. THE FIRST SIGNIFICANT MANIFESTATION OF THIS INTENT WAS THE GOE'S ANNOUNCE-

MENT THAT IT INTENDED TO CREATE A LARGE, INTEGRATED FISHING COMPLEX WHOSE COST WOULD BE BETWEEN \$20 AND \$30 MILLION DOLLARS (QUITO 1062).

5. ANOTHER IMPORTANT STEP IN THIS DIRECTION WAS THE PROMULGATION OF DECREE 1050 IN SEPTEMBER 1973 (QUITO 5173).

CONFIDENTIAL

PAGE 01 QUITO 05664 02 OF 04 012318Z

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ACTION SS-30

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C O N F I D E N T I A L SECTION 2 OF 4 QUITO 5664

EXDIS

THIS DECREE ESTABLISHED IN ECUADOREAN LAW THE PRINCIPLES OF A) CONSERVATION THROUGH A LIMITATION ON THE CATCH OF TUNA WITHIN ECUADOREAN-CLAIMED WATERS, B) FISHING PREFERENCE FOR THE ECUADOREAN-BASED TUNA INDUSTRY WITHIN THE LIMIT, C) ANNUAL QUOTAS FOR FOREIGN FLAG FISHING FOR THE TUNA THE ECUADOREAN INDUSTRY DOES NOT HAVE THE CAPACITY TO CATCH.

6. THE GOE IS DETERMINED TO EXPAND ECUADOREAN FISHING CAPACITY AS RAPIDLY AS POSSIBLE SO THAT EVENTUALLY (AS IS PROVIDED FOR IN DECREE 1050) NO LICENSES FOR FOREIGN FLAG FISHING MAY BE GRANTED AT ALL. THE GOE POLICY ON EXPANDING THE TUNA INDUSTRY HAS TWO ASPECTS: A) THE TEMPORARY EXPANSION OF THE EXISTING INDUSTRY THROUGH CHARTER AND ASSOCIATION CONTRACTS AND B) PERMANENT EXPANSION WITHIN TWO YEARS THROUGH THE ACQUISITION OF NEW FISHING SHIPS AND THE COMPLETION OF THE FISHING COMPLEX. IMPLEMENTATION HAS BEGUN ON BOTH PARTS. SHIPS ARE BEING CHARTERED BY THE PRIVATE FISHING INDUSTRY HERE AND QUALIFICATION OF THE BIDDERS FOR THE FISHING COMPLEX HAS BEEN COMPLETED.

7. IN SUMMARY, THE GOE FISHERIES POSITION HAS SHIFTED DRAMATICALLY DURING THE PAST YEAR. IT IS NOW FOCUSED ON THE RESOURCE ASPECT OF THE QUESTION. THE INTENT IS CLEAR: TO ENABLE ECUADOR TO EXPLOIT FULLY AND EXCLUSIVELY THE RESOURCES OF ITS CLAIMED 200 MILE ZONE AS RAPIDLY AS POSSIBLE. IN SOME RESPECTS, THEREFORE, IT CAN BE SAID THAT OUR RESPECTIVE POSITIONS ARE CONVERGING. ECUADOR HAS MADE IT ABUNDANTLY CLEAR THAT ITS CLAIM TO 200 MILE

CONFIDENTIAL

PAGE 02 QUITO 05664 02 OF 04 012318Z

JURISDICTION IS ESSENTIALLY ECONOMICALLY MOTIVATED AND NOT DESIGNED TO IMPEDE ROUTINE NAVIGATION BEYOND 12 MILES; WHEREAS WE, IN VARIOUS OFFICIAL FORUMS, HAVE EXPRESSED A WILLINGNESS TO ACCEPT SOME SORT OF COASTAL STATE ECONOMIC JURISDICTION OUT TO 200 MILES. THUS ALTHOUGH MANY PRACTICAL HURDLES REMAIN TO BE OVERCOME, IT IS NOT INCORRECT TO CONCLUDE THAT THE THEORETICAL GULF BETWEEN OUR POSITIONS HAS NARROWED SUBSTANTIALLY.

8. THE PROBLEM FOR THE US: HOW CAN WE INSURE THAT U.S. TUNA BOATS CONTINUE TO HAVE ACCESS TO ECUADOREAN-CLAIMED WATERS WITHOUT PREJUDICING OUR LOS INTERESTS IN THE FACE OF THE ECUADOREAN PLAN TO EXCLUDE FOREIGN FLAG FISHING FROM THAT ZONE AS SOON AS POSSIBLE?

9. A POSSIBLE ARRANGEMENT: THERE ARE TWO ELEMENTS OF THE NEW GOE POLICY WHICH SUGGEST THE OUTLINE OF AN ARRANGEMENT WHICH WOULD INSURE CONTINUED ACCESS FOR SOME US FLAG TUNA BOATS AND WHICH WOULD NOT PREJUDICE OUR LOS POSITION. THESE TWO ASPECTS ARE A) THE GOE INTEREST IN CONSERVATION AND B) THE MEASURES IT IS TAKING TO INCREASE TEMPORARILY THE ECUADOREAN TUNA FISHING CAPACITY.

10. AS REPORTED IN QUITO 5309, THE GOE PLANS TO INCREASE THE ECUADOREAN TUNA INDUSTRY'S COASTAL TUNA FISHING CAPACITY THROUGH CHARTER ARRANGEMENTS FOR ADDITIONAL BOATS. THE GOE HAS CREATED THE STATE FISHING CORPORATION FOR DEEP SEA TUNA FISHING AND HAS AUTHORIZED IT TO ACQUIRE BOATS BY PURCHASE, CHARTER OR BY ASSOCIATION CONTRACTS (THE LATTER INVOLVING SOMETHING ON THE ORDER OF A 75 PERCENT -- 25 PERCENT DIVISION OF THE VALUE OF THE CATCH BETWEEN THE BOAT AND THE STATE RESPECTIVELY). FOR OUR PURPOSES THE IMPORTANT ASPECT OF THE CHARTER OR ASSOCIATION ARRANGEMENTS IS THAT PARTICIPATING SHIPS DO NOT NEED TO HAVE ECUADOREAN FISHING LICENSES TO FISH IN ECUADOREAN-CLAIMED WATERS, THEREBY AVOIDING THE ACKNOWLEDGEMENT OF SOVEREIGNTY WHICH SUCH PAYMENTS IMPLY.

11. IT OCCURS TO US THAT THE PRINCIPLE OF CONSERVATION AND THE SPECIAL STATUS CONFERRED BY CHARTER OR ASSOCIATION CONTRACTS OFFER A BASIS FOR AN ARRANGEMENT WITH ECUADOR.

12. AN OUTLINE OF SUCH AN ARRANGEMENT IS AS FOLLOWS:
A. BOTH SIDES WOULD AGREE ON THE ESTABLISHMENT OF A SPECIAL TUNA CONSERVATION ZONE WITHIN AN AREA CORRESPONDING TO THE GOE-CLAIMED CONFIDENTIAL

PAGE 03 QUITO 05664 02 OF 04 012318Z

200 MILE ZONE. WE COULD FOR OPENERS PROPOSE THAT THE ZONE NOT CORRESPOND EXACTLY TO THE GOE'S TERRITORIAL CLAIM SO AS TO DILUTE THE LOS IMPLICATIONS OF THE PROPOSAL AS MUCH AS POSSIBLE.

B. THE AGREEMENT WOULD BE FOR A LIMITED PERIOD OF TIME (2-5 YEARS) PENDING THE RESULTS OF THE LOS CONFERENCE, SUBJECT PERHAPS TO JOINT ANNUAL REVIEW OF CONSERVATION LIMITS.

C. AS A PART OF SUCH A CONSERVATION AGREEMENT, BOTH SIDES WOULD ALSO AGREE ON A LIMITATION OF THE ANNUAL CATCH OF TUNA BY THEIR RESPECTIVE VESSELS IN THAT ZONE. THIS LIMIT WOULD PROBABLY BE EXPRESSED IN TONS AS OPPOSED TO NUMBERS OF VESSELS AS WAS DONE IN THE BRAZILIAN AGREEMENTS.

D. THOSE US FLAG SHIPS PERMITTED TO FISH IN THE ZONE UNDER THIS AGREEMENT WOULD ENJOY EITHER CHARTERED OR ASSOCIATE STATUS UNDER ECUADOREAN LAW.

E. A MEANS WOULD BE ESTABLISHED FOR DETERMINING WHICH U.S. VESSELS WOULD BE ENTITLED TO FISH IN THE CONSERVATION ZONE UNDER ASSOCIATED OR CHARTERED STATUS AS AGREED UNDER PARAGRAPH D ABOVE. THIS COULD BE ACCOMPLISHED IN A VARIETY OF WAYS. THE MATTER COULD BE LEFT ENTIRELY TO THE ECUADOREAN STATE FISHING CORPORATION TO DECIDE BY WHATEVER MECHANISM IT CONSIDERED SUITABLE THEREBY RELIEVING US OF SOME OF THE ONUS FOR HAVING EXCLUDED SOME U.S. BOATS FROM THE ECUADOREAN FISHERY; OR WE COULD TAKE A DIRECT HAND IN SELECTING AND AGREEING UPON WHICH SPECIFIC U.S. BOATS WOULD BE ELIGIBLE. IN ANY EVENT, ONCE THE FACT OF A CONSERVATION AGREEMENT IS ESTABLISHED, THEN THERE IS NO AVOIDING BY ONE MEANS OR ANOTHER THE EXCLUSION OF AT LEAST SOME OF OUR BOATS AND THE ATTENDANT ADVERSE REACTION THIS WILL INEVITABLY GENERATE.

CONFIDENTIAL

PAGE 01 QUITO 05664 03 OF 04 012328Z

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ACTION SS-30

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C O N F I D E N T I A L SECTION 3 OF 4 QUITO 5664

EXDIS

1. REASONS TO PRESS FOR AN ARRANGEMENT NOW:

A. THE GOE IS INTERESTED: THE GOE'S DETERMINATION TO EXPAND ITS TUNA INDUSTRY HAS PARASOXICALLY GENERATED NEW ECAUDOREAN INTEREST IN REACHING AN AGREEMENT WITH US ON THE FISHERIES PROBLEM. THE REASON FOR THIS NEW DEVELOPMENT IS ECONOMIC: THE GOE BELIEVES THAT US COOPERATION COULD ENSURE THE SUCCESS OF ITS EFFORTS TO EXPAND ITS TUNA FISHING INDUSTRY. THE MINISTRY OF NATURAL RESOURCES IS VERY CONSCIOR

QODYZMK#FACT CHAT THE MAJOR MARKET FOR ECYFLGD TUNPD IWTVG#AND PROBABLY WILL REMAIN, THE U.S. IT IS ALSO CONVINCED THAT THE U.S. POSSESSES THE BEST, MOST MODERN TUNA FISHING AND PROCESSING TECHNOLOGY. THE GOE WOULD LIKE TO PROFIT

FROM BOTH FACTORS.

B. AT THE SAME TIME, THE MILITARY WOULD PREFER TO BUY AMERICAN WEAPONS SYSTEMS; ALTHOUGH, EVENTUALLY IT MAY FEEL REQUIRED TO BUY MAJOR EUROPEAN-MANUFACTURED WEAPONS. THE MILITARY HAVE DONE A LOT OF SHOPPING AROUND IN THE LAST YEAR BUT HAVE BOUGHT LITTLE. THIS IS NOT DUE TO LACK OF MONEY BUT, IN OUR OPINION BASED ON CONVERSATIONS WITH OFFICERS, TO A GENUINE PREFERENCE FOR U.S. MADE EQUIPMENT. A RESOLUTION OF THE FISHERIES DISPUTE WOULD PERMIT A RESUMPTION OF PURCHASES. IT WOULD PROBABLY LEAD TO AN EARLY SALE OF F-5S AND T-33S WORTH ABOUT \$45 MILLION. SUCH SALES WOULD ALSO BE MOST USEFUL POLITICALLY SINCE THEY WOULD REINFORCE OUR PRESENTLY ERODING INFLUENCE WITH THE ECUADOREAN MILITARY.

C. THE GOE HAS SIGNALED ITS INTEREST IN AN AGREEMENT IN OTHER WAYS. THE FOREIGN MINISTER IN HIS SPEECH AT THE UNGA HINTED AT THE

CONFIDENTIAL

PAGE 02 QUITO 05664 03 OF 04 012328Z

DESIRABILITY OF TALKS WHEN HE SAID THAT "ECUADOR NOT ONLY REJECTS THE ATTEMPTED APPLICATION OF (US FISHERIES-RELATED) SANCTIONS BUT AT THE SAME TIME POINTS OUT THE FOOLISHNESS OF SUCH CONDUCT WHICH IN NO WAY FAVORS THE FORMATION OF A CLIMATE FAVORING NEGOTIATIONS.." HE WENT ON TO MAKE ADDITIONAL ALLUSIONS TO ECUADOR'S POSITIVE ATTITUDE AND ITS DESIRE TO "MAKE THE SEA

A VEHICLE OF UNITY AND FRIENDSHIP..." AT THE TIME THE AMBASSADOR FIRST MET THE FOREIGN MINISTER (THE DAY AFTER THE LATTER'S RETURN FROM THE UNGA) THE MINISTER MADE A POINT OF EMPHASIZING THAT HE HAD HELD HIS REMARKS ON THE FISHERIES DISPUTE TO THE ABSOLUTE MINIMUM HE THOUGHT POSSIBLE. THIS RESTRAINT, DESPITE THE HR 7117 NOTIFICATION, HAS EXTENDED TO OTHERS IN THE GOE. WHEN THE AMBASSADOR PRESENTED HIS CREDENTIALS ON OCTOBER 1, PRESIDENT RODRIGUEZ EMPHASIZED HIS INTEREST IN THE RESOLUTION OF OUTSTANDING BILATERAL DISPUTES AND IN IMPROVED RELATIONS. (QUITO 5149.) SINCE THE CREDENTIALS CEREMONY NUMEROUS SENIOR GOE OFFICIALS HAVE PRIVATELY TOLD THE AMBASSADOR THAT THEY HOPE US/ECUADOREAN RELATIONS CAN BE IMPROVED. THE APPROACHES HAVE INCLUDED INFORMAL SUGGESTIONS BY TWO WELL-PLACED FIGURES THAT THE AMBASSADOR AND PRESIDENT RODRIGUEZ MEET TO DISCUSS US/ECUADORAN RELATIONS, INCLUDING THE FISHERIES PROBLEM.

D. FINALLY, THE APPOINTMENT OF A NEW SECRETARY OF STATE AND THE ARRIVAL OF A NEW U.S. AMBASSADOR TO ECUADOR HAVE CREATED AN ATMOSPHERE OF EXPECTATION AND HOPE THAT NEW, POSITIVE U.S. POLICY DEVELOPMENTS MAY BE FORTHCOMING.

14. THE TIME FOR NEGOTIATION IS RUNNING OUT:

A. THE CHANGE IN GOE FISHERIES POLICY FROM A NATIONALISTIC ONE TO AN ECONOMICALLY ORIENTED ONE WHICH IS INTENDED TO RESULT IN EXCLUSIVELY ECUADOREAN EXPLOITATION OF THE BILLOGICAL RESOURCES OF ITS CLAIMED 200 MILE SEA NOT ONLY HAS GIVEN ECUADOR A NEW REASON TO DESIRE AN ARRANGEMENT WITH THE U.S. BUT ALSO HAS FUNDAMENTALLY CHANGED THE NEGOTIATING PROBLEM AND LIMITED THE TIME AND OPTIONS AVAILABLE.

B. THE ECUADOREAN POLICY OF EXCLUSION MEANS THAT THE COST TO

THE U.S. OF DEFENDING ACCESS TO THE FISHERIES OFF ECUADOR FOR
U.S. FISHING VESSELS WILL BECOME INCREASINGLY HIGH (PERHAPS AS
HIGH AS BETWEEN \$6 AND \$10 MILLION IN FY 74, IF THE NEW FISHERIES
LAW BE IMPLEMENTED AS IT PRESENTLY READS - QUITO 5619). REIM-
BURSING FISHERMEN FOR THE COSTS OF ARRESTS AND FINES WILL REQUIRE
CONFIDENTIAL

PAGE 03 QUITO 05664 03 OF 04 012328Z

EVER LARGER APPROPRIATIONS AS FINES RISE AND THE GOE CONFIS-
CATES CATCH AND, EVENTUALLY PERHAPS, BOATS. FURTHERMORE,
REIMBURSEMENT OF THESE INCREASED COSTS WILL NOT ENSURE ACCESS
WHEN FOREIGN FLAG FISHING IS FORBIDDEN. EVENTUALLY THE U.S.
WILL FIND ITSELF WITH NO WEAPON OTHER THAN COERCIVE MEASURES
RANGING FROM ECONOMIC SANCTIONS TO THE USE OF FORCE. SUCH MEASURES
WOULD BE INEFFECTIVE AND HAVE DISASTROUS RESULTS. THE HISTORY OF
ECONOMIC SANCTIONS AGAINST ECUADOR IS ONE OF UNRELIEVED FAILURE.
CONSIDERING THE INCREASING AMOUNT OF ECUADOREAN OIL REVENUES,
WE HAVE NO REASON TO BELIEVE THAT ECONOMIC SANCTIONS WILL
SUDDENLY BECOME EFFECTIVE. MILITARY MEASURES WOULD HAVE
EVEN LESS SATISFACTORY RESULTS. THERE WOULD CERTAINLY BE A STRONG
LATIN AMERICAN REACTION AGAINST THE US WHICH WOULD DESTROY
SECRETARY KISSINGER'S CURRENT EFFORT TO IMPROVE HEMISPHERIC
RELATIONS. THIS REACTION MIGHT ALSO COMPROMISE OUR EFFORTS TO
ACHIEVE A USEFUL RESTRUCTURING OF THE OAS AND A CONSTRUCTIVE
LOS CONFERENCE. SUCH ACTION COULD HAVE A DISASTROUS EFFECT ON
U.S. ECONOMIC INTERESTS IN ECUADOR, PERHAPS LEADING TO THE
CONFISCATION OF THE \$300 MILLION U.S. OWNED PETROLEUM INDUSTRY.

NOTE BY OCT: QUITO 5664/3 # AS RECEIVED.
CORRECTION TO FOLLOW.

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PAGE 01 QUITO 05664 04 OF 04 012336Z

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ACTION SS-30

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C O N F I D E N T I A L FINAL SECTION OF 4 QUITO 5664

EXDIS

C. THE OPTION OF PAYING THE COSTS OF ARRESTS AND FINES
IN RETURN FOR ACCESS TO THE ECUADOREAN-CLAIMED FISHERY WILL

NOT BE Viable MUCH LONGER BECAUSE OF THE GOE'S EVOLVING EXCLUSION POLICY. AS WE SEE IT, THEREFORE, WE ARE FACED WITH THREE BROAD CHOICES. THE FIRST WOULD BE TO CONSIDER INCREASED COERCIVE MEASURES; BUT WE BELIEVE THE RECORD AMPLY DEMONSTRATES THAT SUCH MEASURES WOULD BE INEFFECTIVE AND COUNTERPRODUCTIVE. SECOND, WE COULD, IN EFFECT, ABANDON OUR FISHERMEN BY ACCEPTING ECUADOR'S EXCLUSIVE FISHERY BY NOT PRESSING FOR SOME DEGREE OF ACCESS FOR OUR FISHERMEN; BUT THIS WOULD BE UNACCEPTABLE TO THE FISHERMEN AND HENCE THE CONGRESS, AND WOULD PROBABLY BE INTERPRETED AS DE FACTO RECOGNITION OF THE ECUADOREAN LOS POSITION AND, THEREFORE, PREJUDICE OUR LOS POSITION AT THE LOS CONFERENCE. OUR THIRD OPTION IS TO SEEK AN AGREEMENT WHICH AVOIDS THE FOREGOING EXTREMES. WE BELIEVE IT IS IN OUR INTEREST TO PURSUE THIS LATTER COURSE. WE ALSO BELIEVE THE MORE TIME THAT PASSES WITHOUT A SERIOUS ATTEMPT AT A NEGOTIATED ARRANGEMENT THE GREATER THE LIKELIHOOD THAT EVENTS OUTSIDE OUR CONTROL WILL IMPOSE UPON US ONE OF THE LESS DESIRABLE OUTCOMES FORESEEN ABOVE.

15. ADVANTAGES OF AN AGREEMENT:

A. AN ARRANGEMENT RESOLVING THE FISHERIES DISPUTE NOT ONLY HAS THE ADVANTAGE OF AVOIDING THE UNSATISFACTORY
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PAGE 02 QUITO 05664 04 OF 04 012336Z

CHOICE OF INCREASED COERCIVE MEASURES OR OF ABANDONING OUR FISHERMEN (AND PROBABLY OUR LOS POSITION) BUT ALSO SEVERAL POSITIVE POINTS.

B. LOS: THE ARRANGEMENT PROPOSED SKIRTS LOS ISSUES AND CONSEQUENTLY THE LOS POSITIONS OF BOTH SIDES ARE NOT PREJUDICED. THIS IS TRUE FOR TWO REASONS; 1) THE AGREEMENT IS MUTUAL AND IS BASED ON THE PRINCIPLE OF CONSERVATION. NOTHING IS SAID ABOUT SOVEREIGNTY. 2) IT COMPLETELY AVOIDS THE CONTENTIOUS ISSUE OF FISHING LICENSES AND, THEREFORE, THE ASSERTION OF SOVEREIGNTY THAT THEY IMPLY.

C. ACCESS: THE AGREEMENT SUGGESTED IS DESIGNED TO ASSURE CONTINUED ACCESS FOR SOME U.S. FLAG TUNA VESSELS FOR AN AGREED UPON TIME AND UNDER AGREED UPON CONDITIONS. WHILE IT IS TRUE THAT SOME U.S. FLAG VESSELS WILL BE EXCLUDED AND THAT THE COST TO THE PARTICIPATING SHIPS WILL PROBABLY BE HIGHER THAN THE EXISTING COSTS, THE ALTERNATIVE IS THE PROSPECT OF NO ACCESS IN A VERY SHORT PERIOD OF TIME, SAY TWO YEARS, AND POTENTIALLY A VASTLY GREATER COST ECONOMICALLY AND POLITICALLY IN OTHER ASPECTS OF OUR BILATERAL RELATIONS.

D. ECONOMIC: A SUCCESSFUL AGREEMENT WOULD PROBABLY ENSURE GREATER U.S. PARTICIPATION IN THE ECUADOREAN TUNA INDUSTRY AND ALSO VICTORY FOR THE U.S. CONTENDER FOR THE \$20 - \$30 MILLION FISHING COMPLEX.

E. POLITICAL: AN AGREEMENT WOULD END A LONG-STANDING IRRITANT TO US-ECUADOREAN RELATIONS AND PERMIT AN IMPROVEMENT IN RELATIONS.

IT WOULD REMOVE THE CONSTANT THREAT THAT THE DISPUTE MIGHT ADVERSELY AFFECT OTHER MORE IMPORTANT U.S. INTERESTS SUCH AS PETROLEUM.

16. RECOMMENDATION: WE REALIZE THAT THE ARRANGEMENT SUGGESTED IS COMPLEX AND MAY HAVE TECHNICAL PITFALLS. FOR EXAMPLE, THERE MAY NOT BE ENOUGH TUNA TO BE FOUND IN THE CONSERVATION ZONE TO JUSTIFY THE AGREEMENT. ALSO THE PROBLEM OF DETERMINING HOW PARTICIPATING SHIPS ARE TO BE SELECTED IS VERY DIFFICULT AS IS THE QUESTION OF THE ADMINISTRATION OF THE CONSERVATION ZONE. NONETHELESS, WE BELIEVE IT WORTH EXPLORING. THEREFORE WE SUGGEST THAT THE DEPARTMENT SEND A TECHNICAL EXPERT TO QUITO TO CONSULT WITH US ON THE FEASIBILITY OF THIS PROPOSED AGREEMENT. DEPENDING UPON THE SITUATION AT THE TIME, THE EXPERT MIGHT ALSO CONSULT INFORMALLY WITH SOME GOE OFFICIALS. FOLLOWING TECHNICAL ASSESSMENT OF THE

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PAGE 03 QUITO 05664 04 OF 04 012336Z

ARRANGEMENT'S FEASIBILITY, WE WOULD MAKE FURTHER RECOMMENDATIONS.
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